RECENT IMPORTANT DECISIONS

ACKNOWLEDGMENT—PERSONS ENTITLED TO TAKE—OFFICER AND STOCKHOLDER OF CORPORATION.—A bill in equity was filed to foreclose a deed of trust given by defendant corporation. The acknowledgment thereof was taken by a notary who was at the time a director and treasurer of the corporation and also indebted for unpaid subscriptions to its stock. But there was nothing on the face of the instrument or acknowledgment indicating such relationship. *Held,* that the acknowledgment is a ministerial act and the deed of trust was entitled to record and was notice to subsequent purchasers. *Ardmore Nat. Bank* v. *Briggs Machinery and Supply Co. et al.* (1908), — Okla. —, 94 Pac. Rep. 533.

As to whether an acknowledgment is a ministerial or judicial act there seems to be a diversity of holding. The weight of authority is to the effect that it is ministerial. *Loree* v. *Abrier,* 57 Fed. 159; *Scanlon* v. *Wright,* 13 Pick. (Mass.) 523; *Lynch* v. *Livingston,* 6 N. Y. 523. In some jurisdictions it is held judicial or quasi-judicial. *Heitman* v. *Kroh,* 155 Pa. St. 1; *Pickens* v. *Knisely,* 29 W. Va. 1. It is elementary that neither a party to nor one who is financially or beneficially interested in a deed can take the acknowledgment. *Wills* v. *Wood,* 28 Kan. 400; *Groesbeck* v. *Seeley,* 13 Mich. 330. And so a stockholder cannot acknowledge an instrument in which the corporation is interested. *Hayes* v. *Southern Home Bldg. Co.,* 124 Ala. 663; *Smith* v. *Clark,* 100 Ia. 605; *Kothe* v. *Krag-Reynolds Co.,* 20 Ind. App. 293. If the notary is an officer only and not a stockholder of the corporation, he is not disqualified. *Fla. Sav. Bank* v. *Rivers,* 36 Fla. 575; *Sawyer* v. *Cox,* 63 Ill. 130; *Horbach* v. *Tyrrell,* 48 Neb. 514. This case is surely on the border line. But it is supported by cases in Ohio and Tennessee, holding that an officer and stockholder of a corporation may take the acknowledgment where there is nothing on the face of the instrument to show such interest and where no fraud is present or undue advantage taken. *Read* v. *Toledo Loan Co.,* 68 Ohio St. 280; *Cooper* v. *Bldg. and Loan Assoc.* 97 Tenn 285. This question has been more or less affected by statutes in Ill., Ind., Ohio., Penn., Minn., and N. D.

AGENCY—BROKERS—CONTRACT OF EMPLOYMENT—MIDDLEMAN—WHEN COMMISSIONS ARE EARNED.—In an action to recover commissions on a sale of timber land alleged to have been made for defendants, the evidence showed that plaintiff asked of defendants the price of the land and examined it. Plaintiff then called the attention of his employer to the lands and a sale was made through an offer made by the purchaser to defendants. Plaintiff made his claim for a commission after the sale was consummated. No agreement was entered into for a commission, and defendant supposed plaintiff was buying for himself or for another. *Held,* that the evidence did not show that plaintiff was acting as a broker or agent of defendant in securing a